

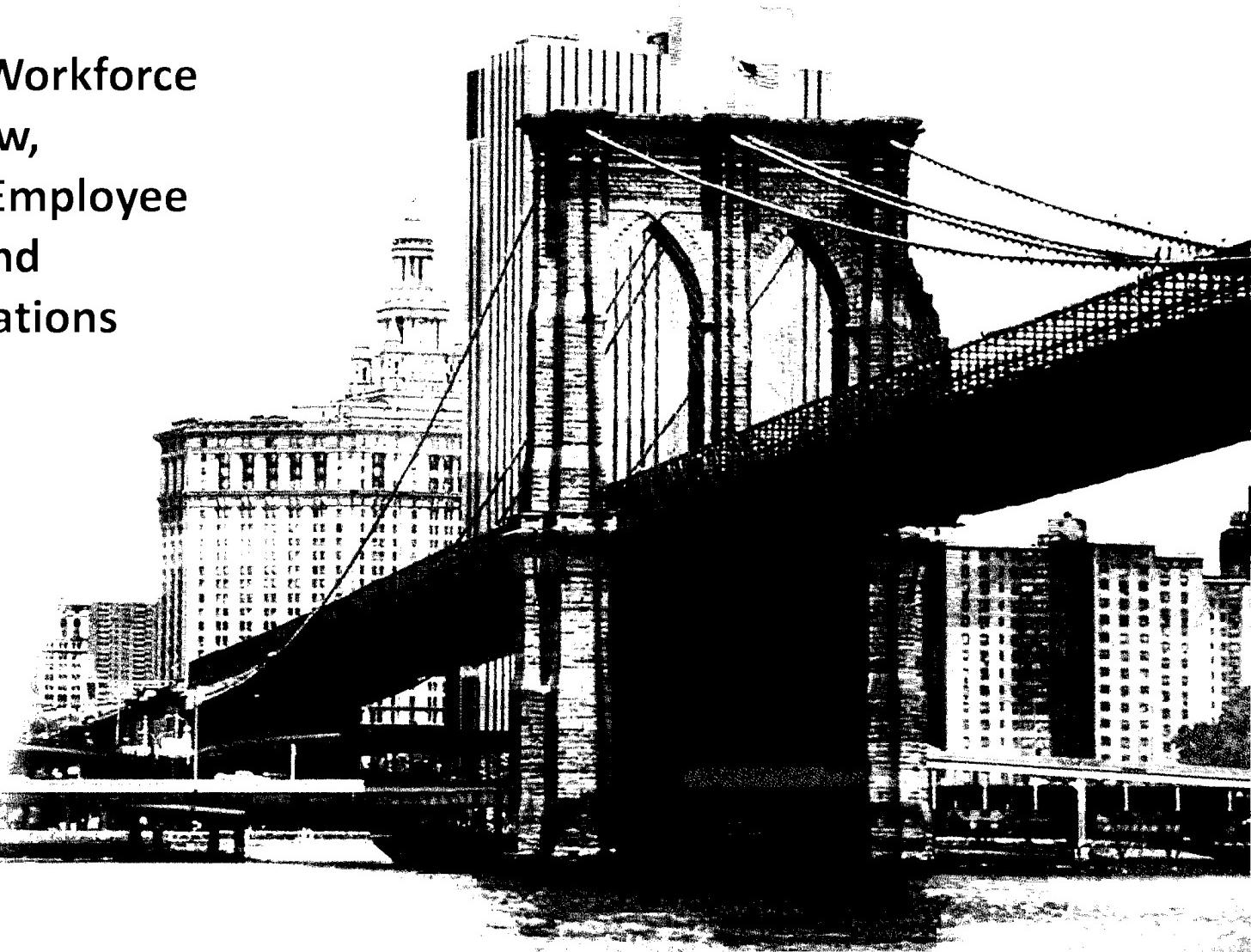
# Exhibit C



## **Citywide Diversity and Equal Employment Opportunity**

### **Diversity and Equal Employment Opportunity Basic Training – Day 3**

**Overview of Statistical Workforce  
Reports, Civil Service Law,  
Uniform Guidelines on Employee  
Selection Procedures, and  
Reasonable Accommodations**





Citywide Diversity and  
Equal Employment Opportunity  
Citywide Administrative  
Services

# INTRODUCTION TO DAY THREE

# Day Three Learning Objectives

- Describe how the City uses workforce analytics to assess workplace fairness and discrimination
- Understand the Civil Service laws relevant to workplace fairness and employee selection
- Understand the advice from the federal uniform guidelines on matters of employee selection
- Gain familiarity with the City's Reasonable Accommodations (R/A) Procedural Guidelines and competencies in applying them



Citywide Diversity and  
Equal Employment Opportunity  
Citywide Administrative  
Services

# STATISTICAL WORKFORCE REPORTS

# Workforce Statistics: Legal Requirements

Under Public Law 88-352, Title VII of the Civil Rights Act (1964), as amended by the EEO Act (1972), all State and local governments that have 15 or more employees are required to keep records and to make such reports to the EEOC:

Chapter 35 of the City Charter requires DCAS to set rules and regulations to ensure equal employment opportunity; to establish uniform practices; and to develop standard reports providing details on agencies' employment practices

Court orders and federal and state funding requirements also mandate statistical records and reports.

# Benefits of Workforce Reports

Provide (objective) measures of success or failure.

- Policy decisions (should be) based on them
- Lawsuits are won or lost by what the numbers show

Assess whether the agency is creating an inclusive work environment by determining whether there are selection disparities in personnel activities.

Reduce liability by minimizing risk and cutting the cost of discrimination.

Being aware of agency data that will be used in employment discrimination cases, EEOC, federal and state agency audits and reports.

Enable workforce planning.

# Workforce Analysis: Three Components

Supply  
Analysis

- Workforce demographics (race, gender, age, etc.)
- Workforce trends (hires, separations, promotions, etc.)
- Availability and demographics of talent in the market

Demand  
Analysis

- Policy/initiative and/or workload changes
- Civil service exam schedules

Gap Analysis

- Compare supply with demand to identify workforce shortages and excesses in the number and role of employees needed
- Identify under-and over-represented demographics (Utilization Report)

# Workforce Analysis Helps You To...

- Ensure that your agency is adhering to EEO law during all phases of employment
- Identify opportunities for your agency to recruit a more diverse applicant pool
- Identify untapped sources of talent from within the agency
- Other?



**Group Discussion**

# Example: Key Trends

Figure 12: Fiscal 2012, Gender in NYC Municipal Workforce versus NYC Population

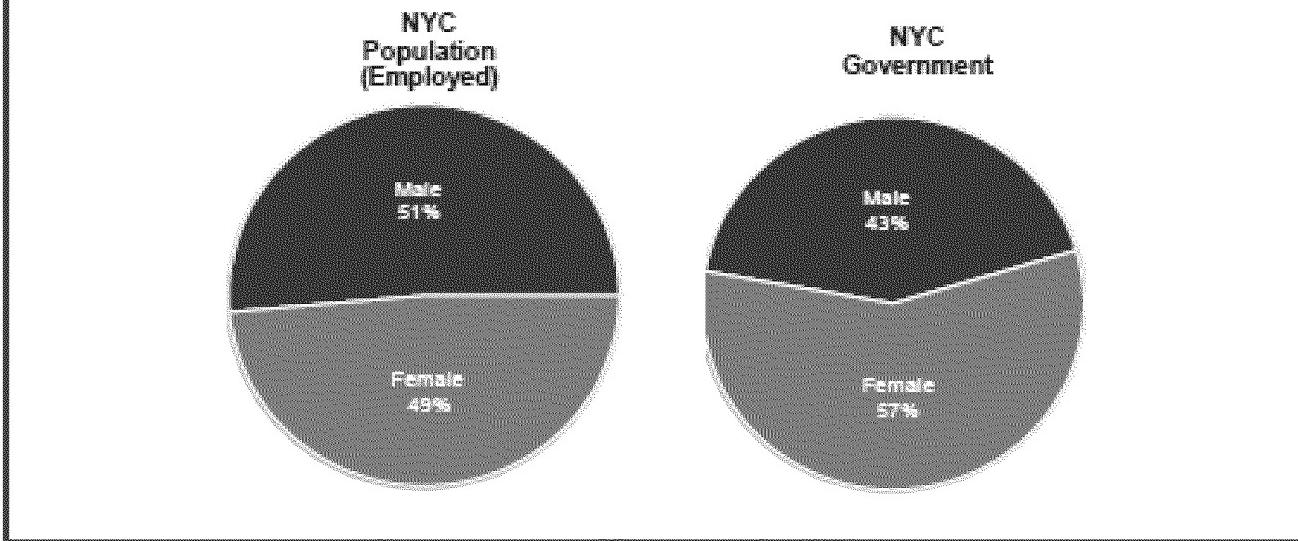
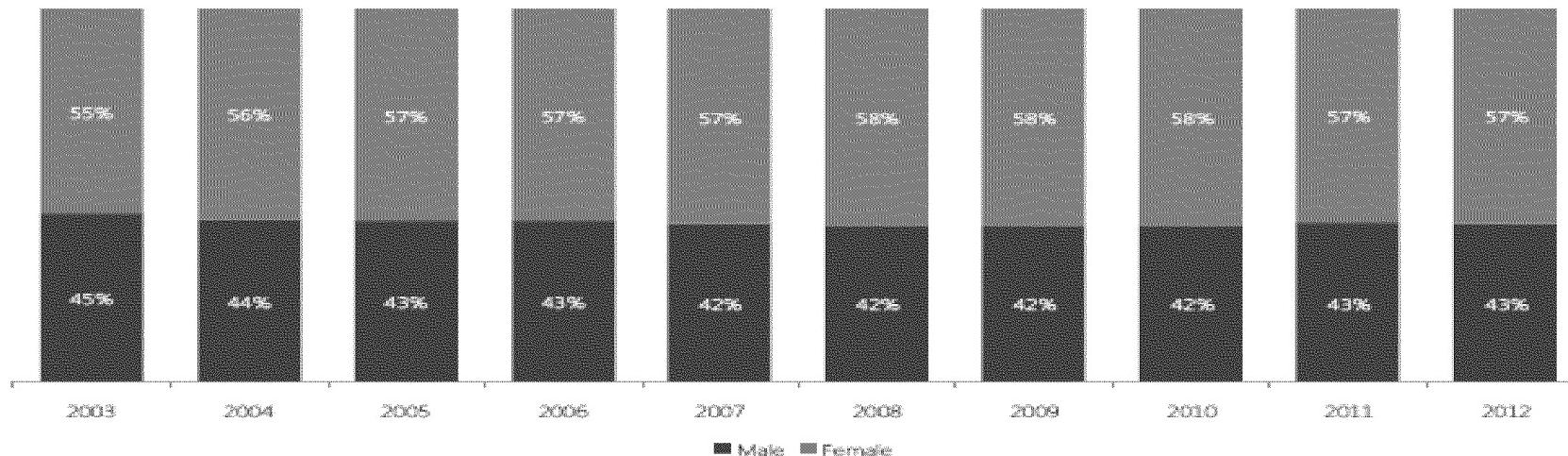
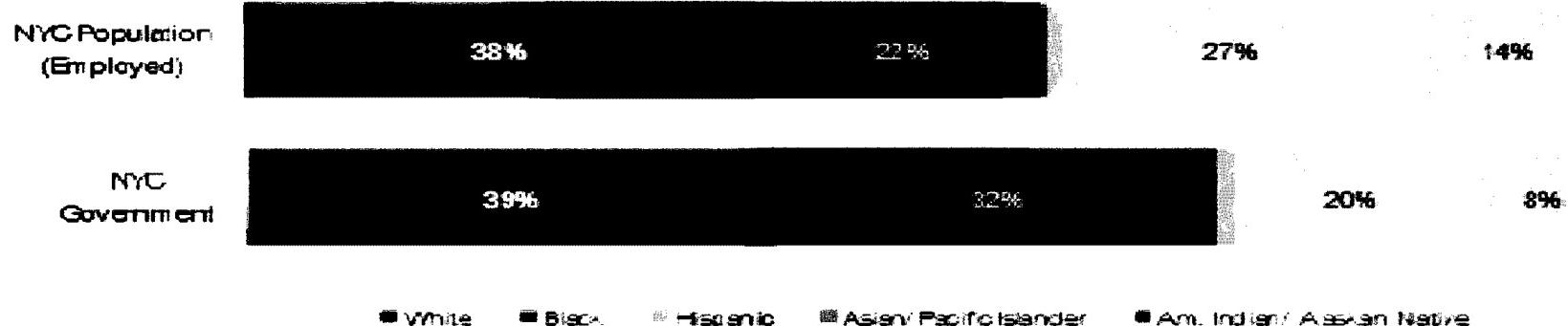


Figure 20: Fiscal 2003 – Fiscal 2012, Gender

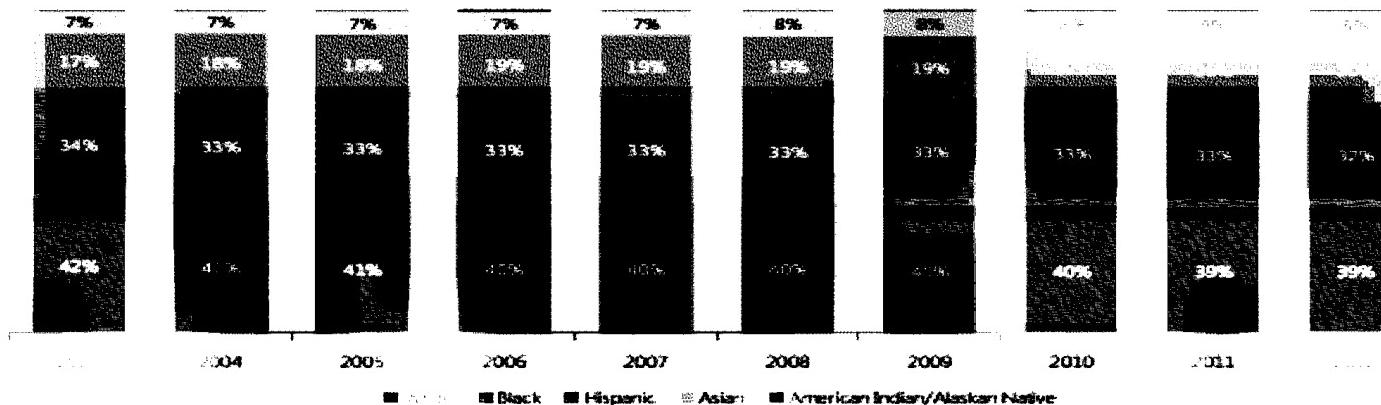


# Example: Key Trends

**Figure 13: Fiscal 2012, Ethnicity in NYC Municipal Workforce versus NYC Population**



**Figure 21: Fiscal 2003 – Fiscal 2012, Ethnicity**



# Comparators

A utilization analysis tests whether the City's workforce is representative of the population that could be in its workforce. A comparison is made between an available labor pool and the incumbent workforce by gender, race and occupations.

## Illustrative Example

Job Group: Managers

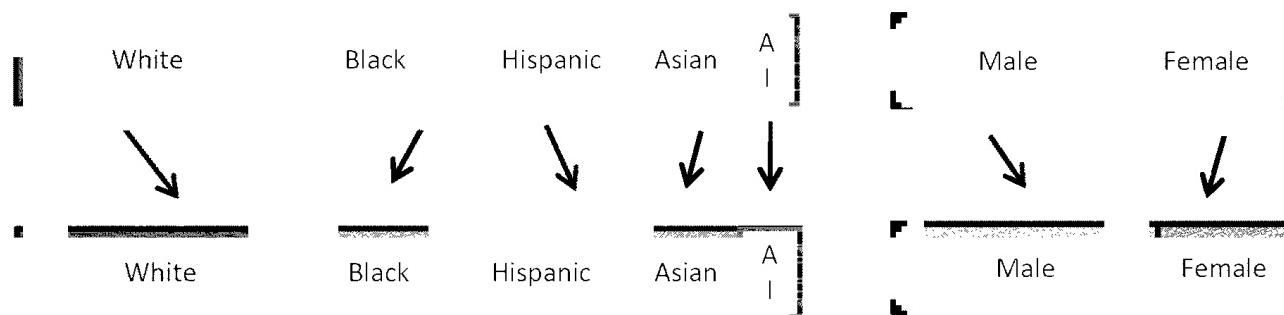
 Civil Service List 18%	Discretionary Internal 40%	Discretionary External <sup>2</sup> 42%
---	-------------------------------	--

Availability Estimate<sup>1</sup>

Actual Workforce Composition

- ↓ **Over-utilization:** significantly more individuals are employed than expected based on availability
- ↓ **Representative:** demonstrates that the workforce has a similar composition than expected based on availability
- ↓ **Under-utilization:** significantly less individuals are employed than expected based on availability

An imbalance (over/under) is determined through 4 statistical tests: 80% test, binomial test, Fisher's Exact test, and Cornfield & Gart test



<sup>1</sup> The availability estimate is calculated by *weighted* pools, representing certified eligibility lists, the historical internal discretionary workforce composition, and the external discretionary workforce composition as determined by Census Bureau data.

# The Four-Fifths Rule

$$\frac{4}{5}$$

The  $\frac{4}{5}^{\text{ths}}$  rule  
(80% standard)  
is a general  
guideline  
("rule of  
thumb")

It is the most  
common way  
of identifying a  
“substantially  
different rate  
of selection”

The rates of the  
minority group  
should be at  
least 80% of  
the rate for  
majority group.

# A Practical Numerical Example

- Majority hiring rate is .60 or 60%
  - Minority hiring rate is .24 or 24%
- 
- **Expectation: No minority group should have a selection rate less than 80% of the majority rate**  
 $.24/.60 = .40 \text{ or } 40\%$
- 
- **Evidence of Adverse Impact: 40% is less than 80%.**

<http://uniformguidelines.com/questionandanswers.html>



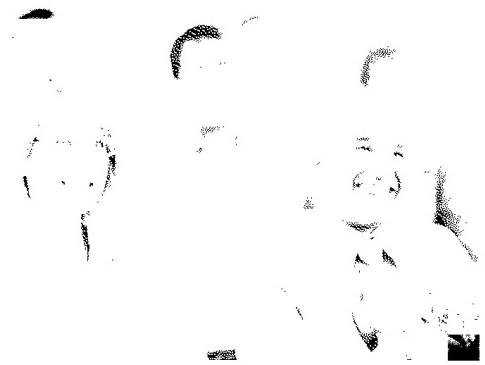
Citywide Diversity and  
Equal Employment Opportunity  
Citywide Administrative  
Services

# ACTIVITY: WHAT ARE THE DATA TELLING ME?

# What Are the Data Telling Me?

- Your facilitator will provide descriptions of three hypothetical scenarios.
- Consider the situation. Do you think there is evidence of adverse impact?
- Discuss ways that your offices should be evaluating situations such as these.

## Large Group Activity



# What Are the Data Telling Me?

1. You observe that there have been 10 promotions for a given title in the last year. All of these promotions went to male employees. There were 20 employees eligible for this promotion, 13 of whom were female. You notice that no woman in the department has been promoted into the title in over 3 years.
  - Is there evidence of adverse impact?
  - What additional steps should be taken to evaluate promotions already awarded?

# What Are the Data Telling Me?

1. There are 40 applicants for an open position. Of these applicants, 50% are over the age of 40; 60% are non-white; 75% are female. Everyone on the current team is female and under 35 years of age, and 80% of employees in a similar role appear to be Caucasian.
- 
- Is there evidence of adverse impact?
  - What are steps that should be taken prior to selecting new hires?

# What Are the Data Telling Me?

1. There was a complaint from local community leaders six months ago that the City isn't hiring diverse people to represent the labor market and that Asians are particularly underrepresented in the workforce. Since that complaint, the agency has hired four people, all of whom are Asian.
- 
- Is there evidence of adverse impact?
  - What should the agency be doing to assess its hiring decisions?

# Questions?





Citywide Diversity and  
Equal Employment Opportunity  
Citywide Administrative  
Services

## ACTIVITY: CASE STUDY

# Case Study: Wright v. Stern





Citywide Diversity and  
Equal Employment Opportunity

BREAK- 15 MINUTES



Citywide Diversity and  
Equal Employment Opportunity  
Citywide Administrative  
Services

# OVERVIEW OF THE CIVIL SERVICE LAW



Citywide Diversity and  
Equal Employment Opportunity

LUNCH- 60 MINUTES

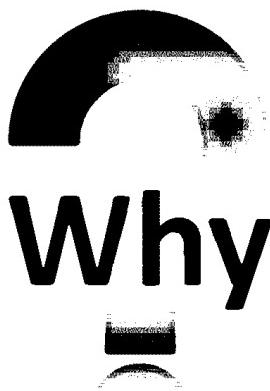


Citywide Diversity and  
Equal Employment Opportunity  
Citywide Administrative  
Services

# UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES (UGESP)

# Uniform Guidelines on Employee Selection Procedures (UGESP)

A set of principles that “level set” how selection practices should be created and evaluated



## Why

Provide a framework for determining the proper use of selection procedures.

Assist in adhering to the intent of Federal law prohibiting employment discrimination.

## An Interesting Tidbit...

- ✓ The *Uniform Guidelines* (1978) are important, but they are not the law.
- ✓ The *Uniform Guidelines* is *advisory* – but courts give great deference to its instructional might



THE  
**GULD**  
STANDARD

# Why Do We Have Uniform Guidelines?

Provide objective standards that help us rate and evaluate candidates

Guide us to create fair, job-related interview questions

Set standards to help ensure that all candidates are treated equally during the selection process

Reduce the risk of triggering claims of discrimination

# Four Key Elements of Employee Selection

## Job Analysis

Know the job before  
you know the person

## Infer KSAs

Define knowledge,  
skills, and abilities  
needed to be successful

## Write Interview Questions

Author job-related questions;  
be objective, standardized in  
delivery

## Valid

Be able to show how  
questions asked link to  
job requirements

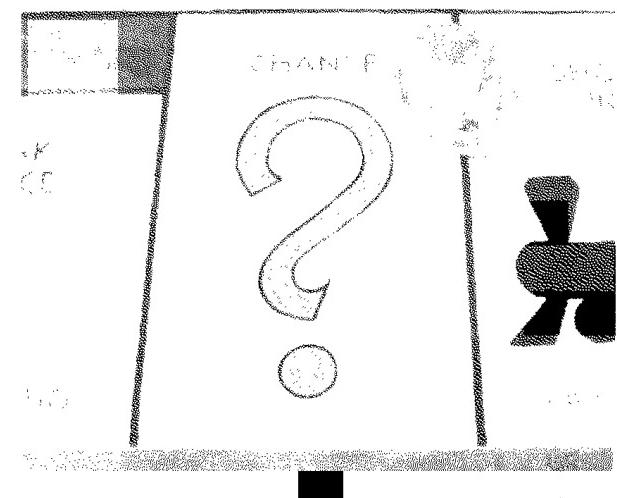


Citywide Diversity and  
Equal Employment Opportunity  
Citywide Administrative  
Services

# STRUCTURED INTERVIEWING

# Don't Leave Interviewing to Chance

- ✓ Interviews are notorious for error
- ✓ Unstructured interviews are a game of chance
- ✓ Protection and prevention of bad (ineffective) interviewing (and/or possible illegal questioning)



# Frequent Sources of Error

Cultural bias	“Similar to me” effect	Contrast (timing)	Absence of standardized way to evaluate
Any group labeling bias	Recency effect & Primacy effect	Ideal rather than job-related	

# What is a Structured Interview?

A planned set of questions that are objective, job-related and standardized

These questions enable all candidates to experience the same screening process

The interview generates outcomes that can be evaluated using an evaluation sheet

# The Structured Interviewing Process

Review/  
create a job  
description  
matching the  
job related  
qualifications

Determine  
why the  
agency is  
filling the  
position

Develop  
interview  
questions  
based on  
the job  
description

Create  
Evaluation  
Criteria

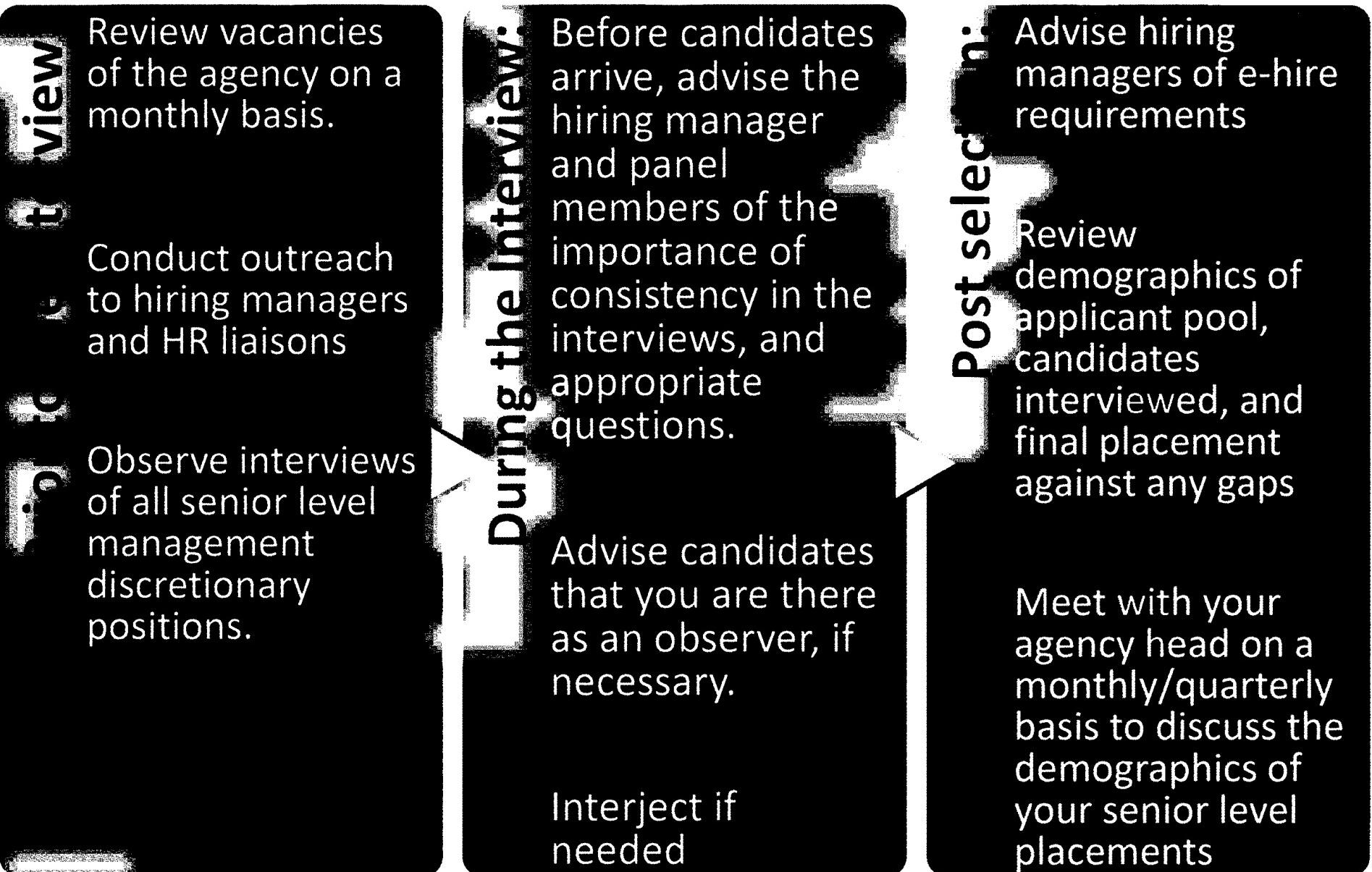
Review  
Resumes

Conduct  
Panel  
Interviews

Find the Planning Guide at:  
<http://www.nyc.gov/html/dcacs/html/about/eeo.shtml>



# Best Practices for the EEO Professional



# Best Practices for the Manager

1) Identify a diverse panel

2) Develop interview questions

3) Review of questions by EEO

4) Conduct Interview

5) Gather evaluation sheets

6) Discuss with panel members

7) Update in E-hire accordingly

# Interview Questions



# Questions Should Collect Behavioral Evidence

**Situation:**

- The event or activity

**Action:**

- How the candidate responded

**Result:**

- The impact or action

## SAR: In Practice

### Example:

(S): Advertising revenue was falling off for my college newspaper, and large numbers of long-term advertisers were not renewing contracts.

(A): I designed a new promotional packet to go with the rate sheet and compared the benefits of *Reporter* circulation with other ad media in the area. I also set-up a special training session for the account executives.

(R): We increased our new advertisers by 20 percent over the same period last year.

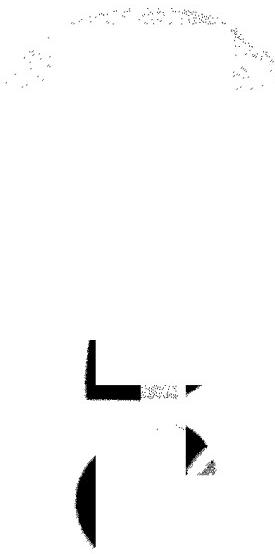
# When Writing Interview Questions

- ✓ Author questions that link to critical aspects of the job
- ✓ Everyone that hears the question should be able to interpret it the same way
- ✓ Ask questions about behavior: Past behavior predicts future behavior
- ✓ Use plain-speak, no agency jargon

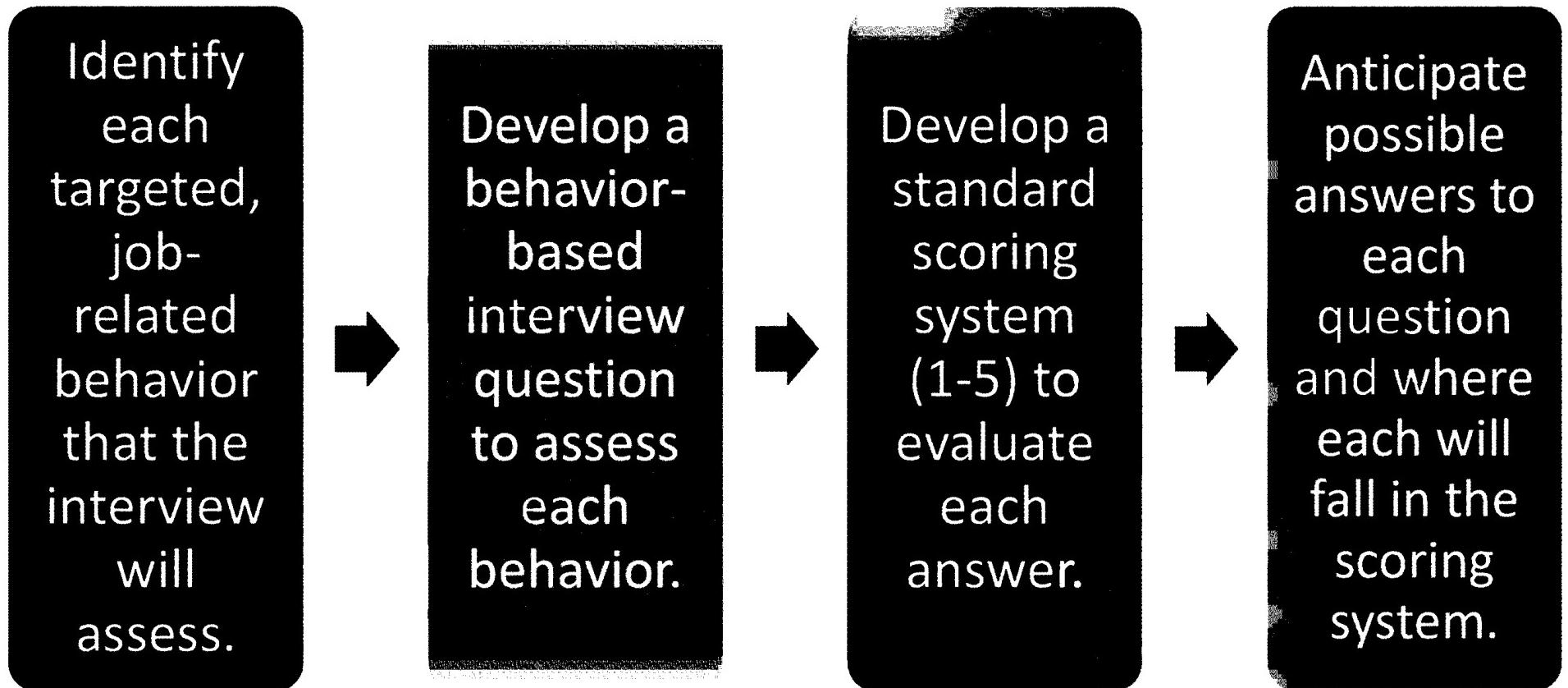
If you cannot preface your question with a statement about job requirements, then second guess whether your question is job related.

# Use of Hypothetical Questions

When would it be appropriate to use hypothetical questions in a structured interview?



# Standard Evaluation Criteria



Source: *Effective Interviewing and Information Gathering*, Thomas Diamante

# Application: Interview Prep and Role Play

- Teams of 4.

## Part 1:

- Review the Sample Job Description in the Activity handout
- As a team, write two job-related interview questions

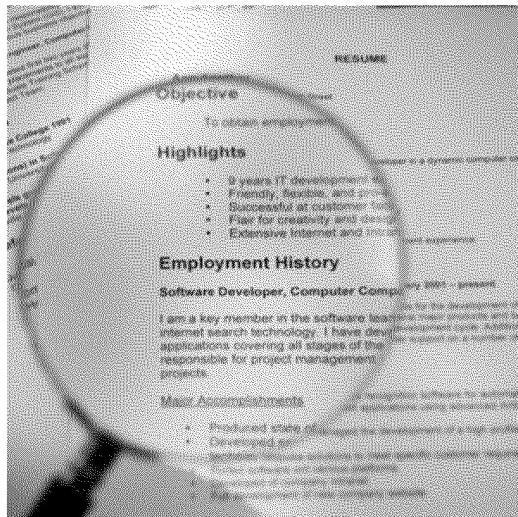
## Part 2:

- Choose a role and review the resume in the activity handout:
  - 1 Hiring Manager
  - 2 Other Panel Members
  - 1 Candidate
- In your teams, discuss what question(s) will each of you be responsible for?
- Role play the interview, using the structured questions you wrote plus any unplanned questions that become appropriate in the context of the interview.

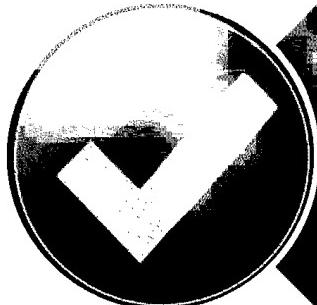


**Team Activity**

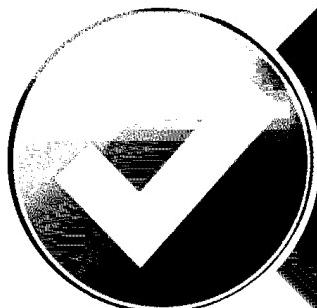
# Screening Resumes



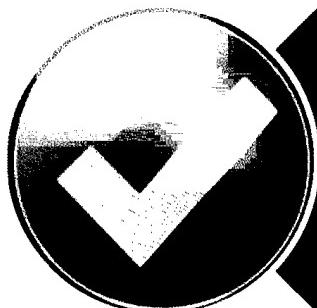
# What to Look For in a Resume



Work and education experience—minimum and preferred qualifications



What the individual considers important in his/her background, which may enable you to better understand the candidate's personality and goals



Remember the interview is to help assess the ability. Candidates prepare the resume to show him or herself in the best possible light to get an interview

For more information, go to: <http://www.cs.ny.gov/>

# Conducting interviews



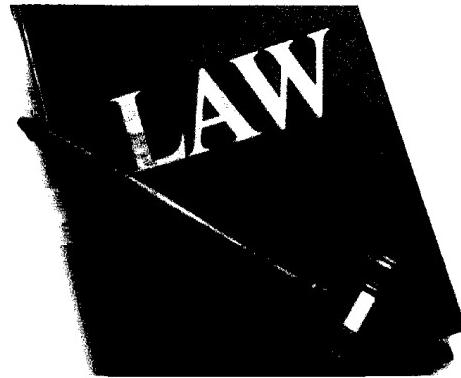
# Be Sure the Interview is Interactive

Interviewer sets a positive tone and is genuine

## Don't forget:

*All conversations with the candidate are part of the interview process and need to follow the same guidelines as the interview. These conversations include those that take place outside the formal interview, such as hallway conversations prior to the interview, or telephone calls to set up the interview, etc.*

# A Word on Unemployed Candidates



The EEOC has determined that hiring based on employment status has a “disproportionately adverse and therefore discriminatory impact” on older workers, minorities, the disabled and veterans.

In many states it is unlawful to suggest in a job posting that the employer is only looking for employed applicants.

- Protection of the unemployed is even stronger in New York City.

However, it remains acceptable to ask an applicant to explain any gaps in employment, or to enquire how the candidate has spent their time since their last job.

# Questions You May Not Ask

Questions that, whether explicitly or implicitly, relate to a candidate's membership in a **protected class** are prohibited



# How Can I Evaluate Whether a Disabled Candidate Can Do the Job?

## What Not to Do

Under the law, an employer **may not ask disability-related questions** and may not conduct medical examinations until after it makes a conditional job offer to the applicant (and only if it required for all entering employees),

- This law applies even if the employer does not intend to look at answers to the questions or the results of the examination until an offer has been made.

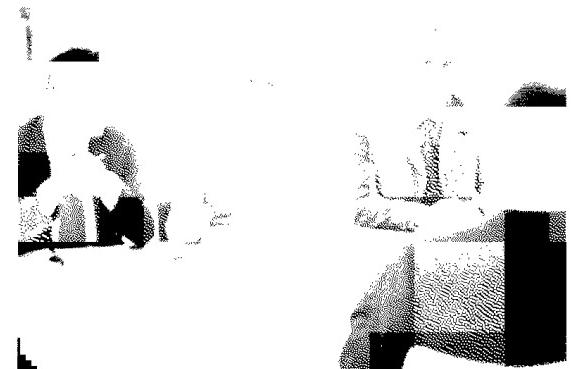
## What You Can Do

To evaluate whether an applicant is qualified for the job, you may:

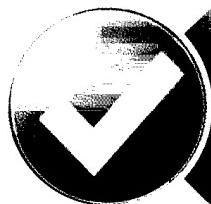
- Ask about an applicant's ability to perform specific job functions.
  - For example, you may state the physical requirements of a job (such as the ability to lift a certain amount of weight, or the ability to climb ladders), and ask if an applicant can satisfy these requirements with or without a reasonable accommodation .
- Ask about an applicant's non-medical qualifications and skills, such as the applicant's education, work history, and required certifications and licenses.
- Ask applicants to describe or demonstrate how they would perform job tasks.

## A Quick Word on Note-taking

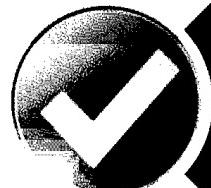
- Memorialize the interview by taking objective notes. Capture the factual details of what the candidate said or accomplished.
- Do not include evaluative comments such as , “I think he is a good fit because..” or “She is a poor candidate for this position because...”
- Do not make any notes about the candidate’s appearance, Human Characteristics, or membership in a protected class.



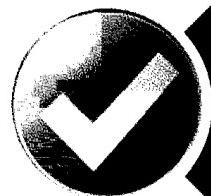
# Summary: Interviewing Essentials



Know job requirements, review the job descriptions, state the required knowledge, skills and abilities (KSAs)



Clarify all phases of your selection process – who is doing what, everyone's role, your role as EEO officer (before, during and after the interview)



Make sure questions are written in advance and are job-related



Clarify how you will evaluate all candidates; standardize this process



Take objective notes to capture the candidate's responses so you can evaluate objectively

# Questions?





Citywide Diversity and  
Equal Employment Opportunity  
Citywide Administrative  
Services

BREAK- 15 MINUTES



Citywide Diversity and  
Equal Employment Opportunity  
Citywide Administrative  
Services

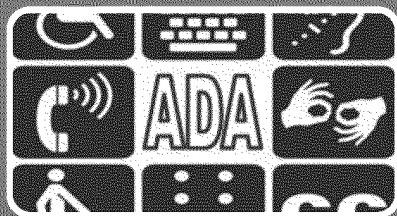
# WHAT IS A REASONABLE ACCOMMODATION?



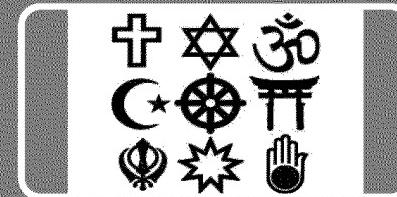
Citywide Diversity and  
Equal Employment Opportunity

# BASES FOR ACCOMMODATION

# Four Bases for Accommodation: Different Accommodations for Each



Disability



Religion



Pregnancy, childbirth or a related medical condition

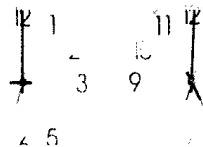


Status as a victim of domestic violence, sex offense or stalking

# Disability Accommodations



Job restructuring



Modifying work schedules



Providing or modifying equipment or devices



Providing a sign language interpreter for the hearing impaired or reader for the visually impaired

Leave and/or transfer

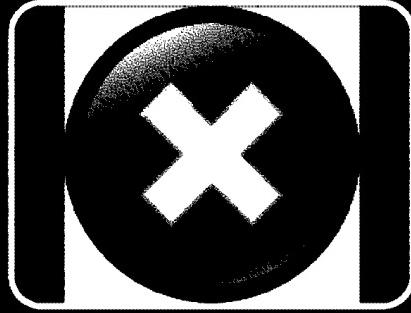


Reassignment

# Drug Dependency and Alcoholism



ADA and State regulations protect individuals who have overcome past substance abuse problems or are in programs to overcome such a problem. Reasonable accommodation is generally adjustment in work schedule to attend rehabilitation.



Current substance and alcohol abusers are not protected.



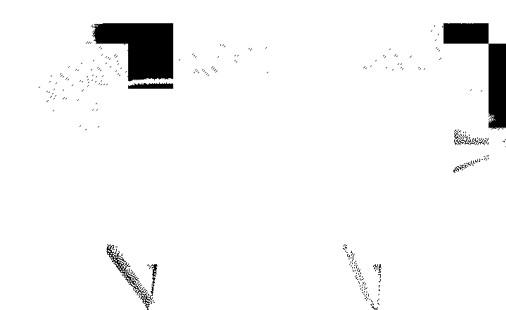
The term "**disability**" shall only apply to a person who

- Is recovering or has recovered; and
- Currently is free of such abuse, and shall not include an individual who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

# A Note on Reassignment

Reassignment can be a last resort when:

- Employee cannot perform essential duties of current position with or without reasonable accommodation
- Accommodation requested presents undue hardship and alternative accommodation is not available
- There are safety concerns of a sufficient magnitude to preclude having the employee remain in the job
- Business changes will impact essential job duties and employee will no longer be able to perform requirements



# Test Accommodations for Applicants

- Test accommodations for civil service exams and application and/or interview accommodations for discretionary position applicants are appropriate.
- These accommodation needs should be assessed separately from any work accommodations that might be needed.

# Religion Accommodations

Flexible arrival and departure times

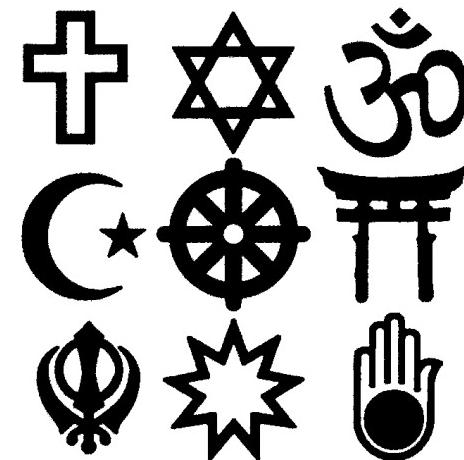
Leave or voluntary swaps of shifts or assignments

Time and/or place to pray

Accommodation relating to appearance and dress

Modified workplace practices, policies and/or procedures

Scheduling of tests and interviews to accommodate religious observances



# Pregnancy, Childbirth or Related Medical Condition Accommodations

Breaks

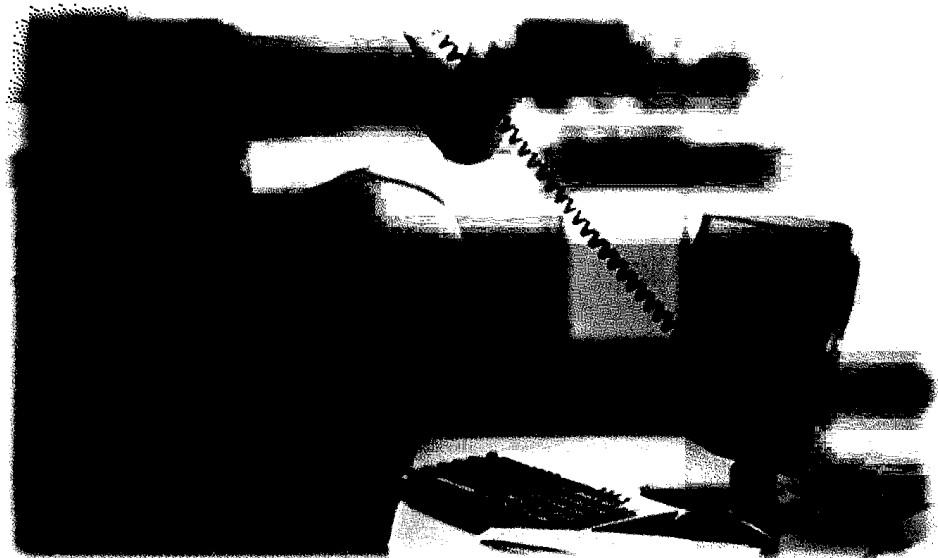
Assistance with  
manual labor

Changes to work  
environment

Time off for prenatal  
appointments

Light duty/temporary  
transfer

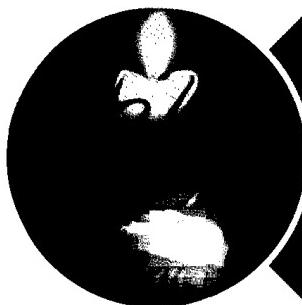
Time off  
to recover



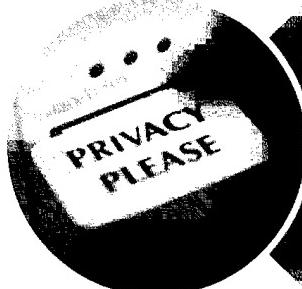
# Accommodations for Nursing Mothers



Nursing mothers may use paid or unpaid break or lunch time to nurse a child or pump breast milk



This accommodation applies up to three years following a child's birth



Employers must make reasonable efforts to provide a location with privacy close to the employee's work area

# Status as Victim of Domestic Violence, Sex Offenses or Stalking Accommodations



Leave

Modified or flexible work schedules

Confidentiality of addresses and phone numbers

Transfers to another location, unit, division and/or workstation

Assisting in the enforcement of protective orders

# Questions?





Citywide Diversity and  
Equal Employment Opportunity  
Citywide Administrative  
Services

# REASONABLE ACCOMMODATION PROCEDURES

# Process for Disability Requests

1. Receive request on R/A Request Form
2. Examine job duties and essential job functions
3. Meet with requestor/obtain medical docs
4. Determine disability & documentation sufficiency
5. Discuss potential accommodations with requestor
6. Direct threat examination, if applicable
7. Undue hardship consideration
8. Grant/deny request in writing by letter



30 days

# Processes for Religion, Pregnancy, Domestic Violence Requests

1. Receive request on R/A Request Form
2. Determine or confirm status
3. Discuss potential accommodations with requestor
4. Undue hardship consideration
5. Grant/deny request in writing by letter

30 days



# Required Documentation for All Requests

ALL R/A requests require completion of the following documents:

- **Employee Completes:**
  - Reasonable Accommodation Request Form
- **Employer Completes:**
  - Reasonable Accommodation Request Record of Steps and Outcome
  - Granting of Reasonable Accommodation Request
  - Denial of Reasonable Accommodation Request

# Additional Required Documentation

In SOME  
specific  
cases, R/A  
requests  
also  
require:

- **Employee Completes:**
  - Authorization for Release of Medical Information
    - Typically required for Disability requests
    - May be required for Pregnancy or Domestic Violence requests

# Certification of Status

Agencies may require certification that a person is a victim of domestic violence, a sexual offense or stalking from one of the following:

- an employee, agent, or volunteer of a victim services organization;
- an attorney;
- a member of the clergy;
- a medical or other professional service provider;
- a police or court record; or
- other information consistent with the disclosure and the request for accommodation.

# What is an Undue Hardship?

**An action that would require significant difficulty or expense AND/OR risk to health or safety**

- Accommodation need not be granted where it would impose an undue hardship on the agency.
- Undue hardship includes any accommodation that would be unduly costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of an agency's business.
- If present, an agency must consider whether an alternative accommodation is available that does not impose undue hardship.

# Determining Undue Hardship

## Religion

- Nature and cost
- Number of individuals requesting
- For agencies with multiple facilities, geographic considerations and fiscal relationships

## All Other Requests

- Nature and cost
- Overall financial resources of the facility and effect on expenses, resources or operation
- Overall financial resources of the agency
- Operational considerations

# Right to Appeal



- An employee has the right to appeal a decision **denying his/her request for a reasonable accommodation OR denying the specific accommodation requested.**
- An employee may also appeal **when no decision was made** regarding the request.

# Appeals Timeline

## Appeals Timeline

**15 days *from decision date* to file appeal**

+

**15 days to review and issue determination  
*after receiving appeal* or communicate  
reasons for delay**

=

**30 days total**

# Questions?





Citywide Diversity and  
Equal Employment Opportunity  
Citywide Administrative  
Services

## ACTIVITY: CASE STUDY

# Case Study: R/A Request



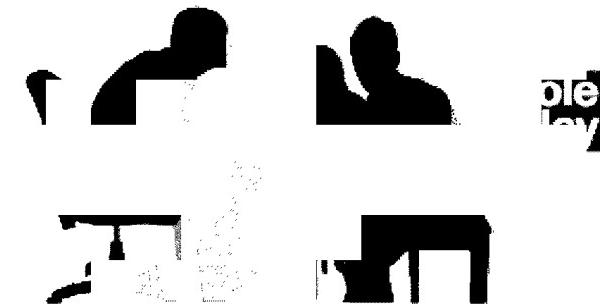
## Table Team Activity

- Form teams of 3-4 and review the completed Reasonable Accommodation Request on the handout.
- As a team, determine the following:
  - Is the request reasonable?
    - If not, what alternate accommodation could you suggest?
  - What documentation will you need to request?



# R/A Role Play

- Using the scenario you just prepared:
- Choose roles:
  - 1 EEO Officer
  - 1 R/A Requestor
  - 1 Observer
- Role play delivering the decision to the requestor.
- Observer should take notes on the EEO officer's performance and be prepared to share what worked well and one suggestion for improvement.





Citywide Diversity and  
Equal Employment Opportunity

WRAP UP

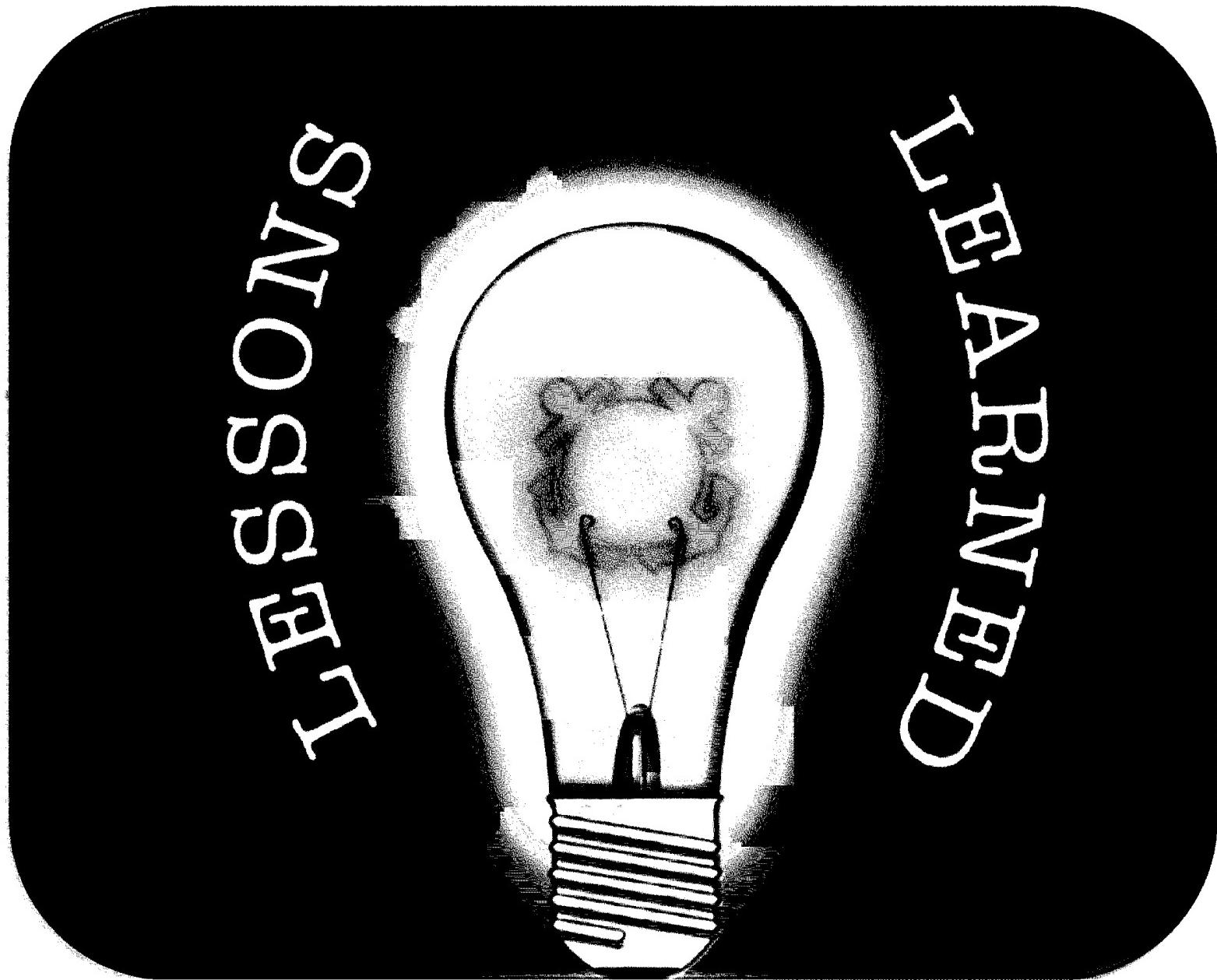
# Summary

- Describe how the City uses workforce analytics to understand workplace fairness and discrimination trends
- Describe the Civil Service laws that relate to these trends
- Understand the advice from the federal uniform guidelines on matters of employee selection
- Articulate the City's reasonable accommodations policy and the role of the R/A Guidelines
- Apply a uniform and consistent process for reviewing reasonable accommodation requests

# Questions?



# Key Takeaways



# Contact Information

Jodi Bryon

Director, Workforce Analytics,  
CDEEO

Email: [Jbryon@dcas.nyc.gov](mailto:Jbryon@dcas.nyc.gov)

Manendra Bhugra, MA, LMSW

Manager, Learning &  
Development

Corporate Counseling Associates,  
Inc.

Website: [www.ccainc.com](http://www.ccainc.com)

Michael Reyes

Agency Attorney, DCAS

Email: [Mreyes@dcas.nyc.gov](mailto:Mreyes@dcas.nyc.gov)

Danielle Barrett

Executive Director, CDEEO

Tel: (212) 386-0266

Email: [Dbarrett@dcas.nyc.gov](mailto:Dbarrett@dcas.nyc.gov)

Sanford Cohen

Deputy General Counsel, DCAS

Email: [Smcohen@dcas.nyc.gov](mailto:Smcohen@dcas.nyc.gov)

**Thank You!**

A large central word 'thank you' is displayed in numerous languages, including English, German, French, Spanish, Italian, Portuguese, Dutch, Swedish, Polish, Russian, Chinese, Japanese, Korean, and many others. The words are arranged in a dense, overlapping cluster, with some appearing multiple times in different sizes or orientations.